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In re Application of :
WENTWORTH, Paul *et al* :
Application No.: 10/534,575 :
PCT No.: PCT/EP03/12709 :
Int. Filing Date: 13 November 2003 :
Priority Date: 14 November 2002 :
Attorney's Docket No.: TSRI 784.5 US :
For: ANTIMICROBIAL ACTIVITY OF :
ANTIBODIES PRODUCING REACTIVE :
OXYGEN SPECIES :

DECISION

This application is before the Office of PCT Legal Administration for matters arising under 35 U.S.C. 371.

BACKGROUND

On 11 May 2005, papers to enter the national stage of PCT/EP03/12709 were filed using an attorney docket number of PI/4-33376A. This application was given U.S. application number 10/534,575.

On 16 May 2005, a duplicate national stage application for PCT/EP03/12709 was filed using an attorney docket number of TSRI 784.5 US. This application was denoted as U.S. application number 10/534,997 but a postcard receipt was not mailed because a prior national stage application was already filed.

On 13 May 2005, after a discussion with each of the undersigned agents, the agent in the first application submitted a "Request to Withdraw Application" and refund all fees paid in that first application (attorney docket number PI/4-33376A).

DISCUSSION

As is evident from the above recited facts, two sets of papers to enter the national stage were submitted for international application PCT/EP03/12709. The end result for an international application designating the United States of America is a single U.S. national stage application.

Therefore, the submission of two sets of national stage papers to enter the United States was improper.

However, applicants may not withdraw the first application and obtain a refund of fees paid. Applicants have no authority to withdraw the application as no attorney has been appointed. See 37 CFR 1.138. Moreover, the fees submitted in the first application (attorney docket number of PI/4-33376A) were properly paid and may not be refunded.

Both applications will be merged into one national stage application for PCT/EP03/12709 with a U.S. application No. 10/534,575.

CONCLUSION

Applicants request to withdraw the first application and obtain a refund of fees paid is hereby **DISMISSED** without prejudice.

Applicants are advised that U.S. application No. 10/534,997 is no longer a valid U.S. National stage application. Applicants must use only U.S. application No. **10/534,575** for all correspondence.

The request to withdraw the application by the agent of the first application has been construed as requesting that the agent of record be changed. This has been done. All mail in the above-captioned application will be sent to the address of the agent in the second application (attorney docket number of TSRI 784.5 US).

The \$2,600.00 in fees charged in the second case (attorney docket number of TSRI 784.5 US) have been credited back to Deposit Account No. 19-0962.

This application is being forwarded to the National Stage Processing Division of the Office of PCT Operations for continued processing.



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